

Continuation of business in cases of license defects

HB 2512 by Hilbert (Henderson)

DIGEST:	HB 2512 would have allowed a licensee with a defective license to continue operating if the defect was subject to correction by the agency or other authority or the licensee acted to correct the defect. HB 2512 would not have applied to any defects that created a material risk to the public health and safety or to the environment.
GOVERNOR'S REASON FOR VETO:	<p>"This bill would allow a business to continue to operate even though a court reverses the agency action granting the operating license if the reversal is because of "procedural or clerical defects" and returns the case to the agency or lower court. It would also limit review by the lower court or agency to the particular defect found by the court. If the business states that it will correct the defect within 90 days, the agency must accept the statement and allow the business to continue operating.</p> <p>"This bill does not define procedural or clerical defect. It ignores the fact that a procedural irregularity may affect the substance of a hearing. A licensee could use this bill to perpetually continue operations even though a court has determined that the licensing decision was flawed.</p> <p>"Further, this bill would apply retroactively to all licenses issued after January 1, 1989. This could impact the rights of current challengers to licensing decisions in violation of the constitutional prohibition against retroactive laws."</p>
RESPONSE:	Rep. Paul Hilbert, the author of HB 2512, was unavailable for comment. Sen. Don Henderson, the Senate sponsor, had no comment.
NOTES:	HB 2512 passed the House on the Consent Calendar and was not analyzed in the <i>Daily Floor Report</i> .